

STRATEGIC DETENTION AND INTELLIGENCE OPERATIONS: GTMO IS THE ANSWER

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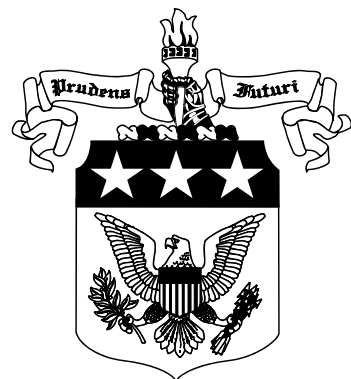
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USAWC STRATEGY RESEARCH PROJECT

**STRATEGIC DETENTION AND INTELLIGENCE OPERATIONS:
GTMO IS THE ANSWER**

by

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ABSTRACT

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Since its opening in 2002, the Joint Detention Facility located at Guantanamo Bay, Cuba (GTMO) has energized a significant amount of political debate, in and outside the United States government, and around the world, as to whether or not the facility hinders United States foreign policy. The President has stated publicly he desires to “close the place down.” However, the fact remains the United States and other western nations are in for a “long war” against terrorists and terrorist organizations. With that, in spite of the political debate as to its actual location, the US government must have a detention facility that provides a safe, secure, and humane environment to hold detainees captured outside of US borders and one that facilitates strategic intelligence collection until such time a decision is made to outright release those captured; release them to their country of origin or release them to a third party country. Additionally, the US needs a confinement facility to provide for long term confinement if detainees are actually found guilty before a Military Commission as outlined in the Military Commissions Act of 2006. GTMO was the correct choice in 2002 and remains the logical place to conduct these tasks today.

STRATEGIC DETENTION AND INTELLIGENCE OPERATIONS: GTMO IS THE ANSWER

Guantanamo Bay [GTMO] is a clean, safe and humane place for enemy combatants, and the Military Commissions Act provides a fair process to adjudicate the guilt or innocence of those alleged to have committed crimes. Even the most vocal critics say they do not want to set terrorists free, but they scorn Guantanamo Bay and military commissions and demand alternatives. The facts show the current alternative is worth keeping.¹

—Air Force Colonel Morris D. Davis
Chief Prosecutor,
DoD Office of Military Commissions

Since the initial arrival of detainees from the battlefields of Afghanistan in early January of 2002, the Joint Detention Facility located at Guantanamo Bay, Cuba (GTMO) has energized a significant amount of political debate, in and outside the United States government, and around the world, as to whether or not the facility inherently hinders United States foreign policy. The President has stated publicly he desires to “close the place down”. However, the fact remains the United States and other western nations are in for a “long war” against terrorists and terrorist organizations who have clearly defined goals and ambitions of attacking again. In spite of the political debate, relative to its actual location, the US government must have a detention facility that provides a safe, secure, and humane environment to hold detainees captured during the on-going war on terror and one that facilitates strategic intelligence collection until such time a decision is made to outright release those captured; release them to their country of origin or release them to a third party country. Additionally, the US needs a confinement facility to provide for long term confinement if detainees are actually found guilty before a Military Commission as outlined in the Military

Commission Act of 2006. GTMO was the correct choice in 2002 and remains the logical and best place to conduct these tasks today and in the future.

Why is GTMO the logical choice? The purpose of this paper is to postulate an answer to this question. In doing so, this paper will explore the reason why the US decided upon GTMO as the location for the Joint Detention Facility; further explain the current and future operational environments and argue for the continued need for a strategic detention and intelligence facility. Additionally, it will outline why the current standards of care and custody clearly facilitate the continued operation of GTMO in spite of the proposals of some in the US Congress, like Representative John Murtha, (D-Pa), Chairman of the House Defense Appropriations Subcommittee, who proposed to cut funding for the GTMO operation thereby “forcing its closure in six months”² and why keeping it operating is a better alternative than building completely new facilities at a place like Fort Leavenworth, Kansas, home of the United States Disciplinary Barracks.

Background

The decision to move detainees from the Afghanistan area of operation (AOR) to GTMO was made in late 2001. When detainees first arrived, they were placed into Camp X-Ray. “Camp X-Ray was built in the early 1980’s and was used to hold delinquent [Cuban and Haitian] migrants. The detainees were held [in Camp X-Ray] until Camp Delta was built and opened in April 2002.”³ From the start, the decision was made to use Camp X-Ray only as a temporary facility until more permanent facilities were built.⁴ Although Camp X-Ray is no longer used and is overgrown with vines, grasses and weeds, it still remains a fixture in the public domain today. Even though detainees have not been housed there since April 2002, anti-GTMO advocates continue

to use and attach file photos taken of detainees in their “orange jumpsuits”, during the three months of the Camp X-Ray operation, to print media and internet stories. Their goal in doing so is to inflame the uninformed public audience in their continuing efforts to have the GTMO operation shut down. Until demolished, anti-GTMO advocates will continue to put forth photos of Camp X-Ray in efforts to “play on” and mislead the uninformed public to believe detainees are still being held there. Although the JTF leadership would like to demolish the camp, a federal court order currently exists which does not allow for its destruction.

From the moment the decision was announced to move detainees to GTMO the Defense Department began to receive internal criticism for the plan. When specifically asked by a reporter during a December 2001 Department of Defense (DoD) news briefing, “Why use [GTMO]? Why is it the best place?”⁵ Then Secretary of Defense Donald Rumsfeld stated and “characterize[d] Guantanamo Bay, Cuba as the least worst place [in the world] we could have selected. It has advantages [and] its disadvantages.”⁶ The decision to move detainees to GTMO was based, in part, upon facility size and security reasons. Although coalition forces had established detention facilities at Mazar-e Sharif and Kandahar, Afghanistan, the force structure and size of the facilities were not adequate enough to secure the types of detainees being held. By mid January 2002, the AOR detainee population was at “400-plus and the decision was made to move some [detainees] to Pakistan for disposition while moving others to Guantanamo Bay so as to relieve the pressure on the Kandahar forces and facilities.”⁷ From a security standpoint, Secretary Rumsfeld viewed the detainees moved to GTMO as “[the] very hard cases for the most part.”⁸ The Secretary used as an example, the “uprising at

Mazar-e Sharif when al-Qaeda [detainees] broke loose in a bloody uprising [where] they killed one American and they killed a number of Afghan troops and some prisoners were carrying grenades under their clothing.”⁹

Once in GTMO and detained in Camp X-Ray, the legal status, security and detention procedures, and treatment of the detainees came into question. From a legal standpoint, the question became “why not call them prisoners of war?”¹⁰ This is best answered by specifically looking at “the purpose of the Geneva Convention...the purpose of the convention was to distinguish between legitimate combatants and unlawful combatants – lawful combatants, on the one hand, and unlawful on the other.”¹¹ “Al-Qaeda members show no respect for either humanitarian law applicable to the victims of conflict reflected in the Geneva Conventions or the laws applicable to the conduct of hostilities found in the Hague Conventions...specifically [they] are organized to violate the precepts of the law of armed conflict: they do not wear uniforms; they do not carry arms openly; they do not have an organized command structure; and most importantly, they direct their attacks against non-combatants (that is, innocent civilians).”¹² With that, as stated by Secretary Rumsfeld, most people would agree that al-Qaeda is a terrorist organization; it is not a country¹³ ergo the status of prisoner of war would not apply.

Secretary Rumsfeld further stated, however, that the detainees detained at GTMO were “being treated in a manner that’s consistent with the Geneva Convention, whether or not they [merited] that kind of treatment.”¹⁴ All detainee operations currently conducted at GTMO are clearly being carried out within the spirit of the Geneva Convention. Specifically the “Geneva Convention at its core, requires that ‘Prisoners of

War at all times must be humanely treated’...Joint Task Force-GTMO provides for the safe and humane care and custody of the detained enemy combatants.”¹⁵ For example, Geneva requires for the “complete latitude in the practice of religion... [JTF-GTMO ensures] each detainee is provided a Koran, prayer beads and prayer time observed throughout the day.”¹⁶ Geneva requires adequate medical care...detainees at GTMO “receive free medical, psychological, and dental care from a professional dedicated staff...equal to the care provided to the U.S. troops stationed on GTMO.”¹⁷ Geneva requires “a healthy variety of food as well as water...detainees are provided three specially prepared halal meals per day, consisting of 4500-5000 calories a day and ample water and Gatorade.”¹⁸ Geneva requires “adequate premises and the necessary equipment for recreation...detainees are permitted recreation of a minimum of two hours a day and in many cases, certain detainees are provided the opportunity to recreate up to twelve hours a day.”¹⁹ Finally, Geneva requires the “entitlement to counsel for purposes of defense in judicial proceedings...detainees are provided defense counsel for Military Commissions and are allowed to be represented by Habeas Counsel in civil proceedings.”²⁰

It is important to note that it has been a little over six years since the first detainees arrived on GTMO and many legal questions still remain beyond the Geneva Convention. The longer the legal procedures are drawn out, many are beginning to term the legal battle as “law fare”. “The Bush administration asserts that the detainees held at Guantanamo Bay enjoy more procedural protections than any other captured enemy combatants in the history of warfare.”²¹ In fact, “in 2004, the Supreme Court held that the [detainees] at Guantanamo Bay could challenge the legality of their detention in

federal court because the United States, under treaty, exercises 'exclusive jurisdiction' there."²² The courts ruling stated that "upon initial arrival of a detainee to Guantanamo Bay, individuals would be given an opportunity to be heard by a military tribunal."²³ As a result of the courts decision, procedures known as Combatant Status Review Tribunals (CSRT) and Administrative Review Boards (ARB) were initiated. "Both procedures are administrative in nature; the tribunal panel consists of three field grade officers, [one of which must be a Judge Advocate General Corps Officer], convened to examine both [the] classified and unclassified evidence regarding the detention of the enemy combatants intercepted on the battlefield."²⁴

"Based on the review of the evidence, [at the conclusion of each tribunal], the board then poses one of three recommendations; the release of the enemy combatant, the transfer of the enemy combatant to his home country or a third-party nation, or the [enemy combatants] continued detention."²⁵ The recommendation is then forwarded to the "Designated Civilian Official" (DCO), the sitting Deputy Secretary of Defense, who, with inputs and the recommendations from the Joint Task Force – GTMO Commander, the FBI and other governmental agencies, makes the final decision relative to the detainees' final status. If a detainee is not recommended for release or transfer, his case is heard annually before the Administrative Review Board (ARB).²⁶ For all intents and purposes, the ARB is essentially a "parole board hearing" much like the same procedures which exist today in the US criminal justice system. If the DCO approves a recommendation to release or transfer the detainee, DoD in coordination with representatives from the Department of State work with the detainees' home country or a third-party country to effect the detainees transfer from GTMO.

The Congressionally mandated Detainee Treatment Act of 2005 subsequently provided additional clarifications and rights to those detained in GTMO as well as Afghanistan and Iraq.²⁷ One of the major findings to come from the Detainee Treatment Act was that the “act further provided for the exclusive judicial review of [the] Combatant Status Review Tribunal determinations and Military Commission Decisions in the DC Circuit court.”²⁸ However, the mandating of the provisions outlined in the Detainee Treatment Act did nothing to stem the tide of legal outcry and endless court motions originating from civil liberty organizations, human rights advocates and their supporting legal representatives. With that, and in response to the legal motions filed in response to the Detainee Treatment Act, the Congress, “frustrated once again, quickly passed the Military Commissions Act of 2006”²⁹ which “eliminated the current habeas cases; structured [the commissions] similar to Courts martial; [gave] minimum basic rights; [and] relaxe[d] certain evidence rules like hearsay and protects National Security information.”³⁰

In any case, the “law fare” continues as motions challenging the Military Commissions Act are now currently before the US Supreme Court. However, the current procedures in place at GTMO continue to move forward. In September of 2006, 14 additional “high valued detainees” [HVTs] to include Khalid Sheikh Mohammed, the alleged “mastermind” behind the 9-11 attacks were transferred from CIA control to GTMO. Since the arrival of the aforementioned 14, an additional 5 detainees have been captured and transferred to GTMO with the latest one arriving in March 2008. Since the arrival of the first detainees in January 2002, approximately 775 detainees have been held in GTMO. Utilizing the procedures of the Combatant Status Review Tribunals and

the Administrative Review boards, it is important to note that the procedures are working and to date, over 500 have been released, transferred to their home country or transferred to a third-party country. Today, the one constant is the continued safe, secure, treatment and custody of the approximately 275 detainees that remain at GTMO.

Because of its location, very few people from “middle America” have had the opportunity to visit the detention facility at Guantanamo Bay. Most only know what they see and read newspapers and periodicals or hear on the television. However, the fact remains that “Joint Task Force Guantanamo operates one of the most publicly and legal transparent detention facilities in the world...more than 3200 media personnel from more than 1400 organizations around the world have visited the Guantanamo detention facility since detainee operations began in January 2002; more than 2800 military, government, civic and business leaders have toured the facilities in the same time frame and habeas and defense attorney [have totaled more than 1000 in the past year alone].³¹ In spite of this transparency, most Americans do not take the time to research for themselves what they hear or are being told by the various information sources they have at their disposal.

The detainees being held at GTMO clearly understand the situation they are in and are educated and trained to use the media and their counsel to their advantage; it is through these venues that detainees are able to keep their legal representation and the media focused on their “cause”. The effort is to always portray the US and the military authorities as the “bad guy”.

The “Manchester Document [is] a terrorist training manual found in the apartment of a suspected al-Qaeda member in Manchester, England in May 2000.”³² The document was a primary source of training for many of the detainees in GTMO. The document specifically addresses what detainees should do in the event they are captured and find themselves in prisons and/or detention centers. Specifically, “at the beginning of the [a] trail...the brothers [are directed to] insist on proving that torture was inflicted on them...before the judge; [they must] complain to the court of mistreatment while in prison; [they are trained] to resort to hunger strike if possible; [they are trained] to take advantage of visits to communicate with the brothers outside prison and exchange information that may be helpful to them in their work outside the prison...the importance of mastering the art of hiding messages is self evident here.”³³ Given the large number of legal representation visits and the vast amount of media attention paid to the detention operations at GTMO, we know that numerous hunger strikes have been reported; not a day goes by that you can not find a story referencing the “torture” endured by detainees held there. Examples like these clearly illustrate that the training the detainees received is being put into practice.

Intelligence Operations

Given all this as a back drop we can still look to the future with a clear understanding of what the future holds for the United States in terms of the detention environment. Additionally, given that “the expected future operational environment for military forces will be extremely dynamic...characterized by adaptive and thinking adversaries [who] will continually seek new capabilities and new employment methods to counter the military superiority of the United States and [our] allies”,³⁴ the US must

have the detention and intelligence facility at Guantanamo Bay in spite of the “law fare” that is sure to continue.

While the “law fare” battles continue the intelligence and detention missions continue unabated. Specifically the mission of the Joint Task Force (JTF) Guantanamo Bay is to: “Conduct safe and humane care and custody of detained enemy combatants...conduct interrogation operations to collect strategic intelligence in support of the Global War on Terror and support law enforcement and war crimes investigations [and] conduct [all] operations legally and transparently.”³⁵

Although calls to close down the operations in GTMO still continue, in January 2008, the Chairman of the Joint Chiefs, Admiral Mike Mullen, stated that in spite of all the “editorializ[ing] going on... [he] is not aware of anyone considering closing the place down”³⁶ at this time. He further stated that the GTMO mission “plays an essential part in fighting the War on Terror [and that the] joint detention operation is a necessary part of mitigating risk [such that the U.S.] needs to keep the detention facilities operating as best as they can [in order] to protect Americans against individuals who have pretty bad backgrounds in terms of War on Terror.”³⁷

As stated in the mission statement, the JTF, in addition to the detention mission, is responsible for collecting strategic intelligence and supporting strategic intelligence operations world-wide. With that, “GTMO is currently the only DoD national-level “strategic [intelligence] and interrogation [facility] and will remain useful as long as the war on terrorism is underway and new enemy combatants are captured and sent [there].”³⁸ In fact during the past 18 months approximately 19 detainees (including the 14 HVTs transferred in Sept 2006) have been processed into the GTMO detention and

intelligence facility. Additionally there are literally thousands of detainees currently being held in Iraq and Afghanistan; some of whom may be transferred to GTMO in the future. Some of the those detainees are purely threats to the governments of Iraq and Afghanistan; while some are threats to the Iraq and Afghanistan governments and the US and some are [more of] a threat to the U.S. than either Iraq or Afghanistan.³⁹ The latter two categories are [quite] troublesome in that when, and if, the US decides to leave both Iraq and Afghanistan, “we will be forced to make a very hard policy decision about who gets released, who gets transferred to Iraqi [or Afghanistan] custody and control and who, because of the [continued] threat they pose to the US and [our] allies, must be retained [in] US custody.”⁴⁰ Beyond Iraq and Afghanistan, we must also understand that the possibility exists that the US will capture terrorists in other places around the world. For example, since the US is currently operating in the Horn of Africa (HoA) region (JTF-Horn of Africa), where “we were able to move HoA captured detainees to friendly countries to be held for the medium and long term. Recently however, these [other friendly] countries have pushed back such that many of the aforementioned 19 [were] transferred directly to GTMO.”⁴¹ “So, given that the [US] must have a detention facility, and to avoid the potential problems we may face in Iraq and Afghanistan, it is incumbent the USG have a place where we can unilaterally hold detainees...this would mean GTMO.”⁴²

The large scale detainee operations being executed by the military during Operations Enduring Freedom and Iraqi Freedom, coupled with other detainee captures in various parts of the world, illustrates the strategic nature of detention operations during an on-going war. The international and domestic media attention being paid to

the detention facilities and operations in Iraq, Afghanistan and at GTMO serves to ensure that Commanders at all levels are well versed in the overarching directives, regulations and doctrine outlining the lawful conduct of detaining persons captured or detained on the battlefield. Adherence to the standards directed in the newly published Joint Publication 3-63, Joint Detention; the Army Regulation 2-22.3, Human Intelligence Collector Operations; the DoD Directive 3115.09, Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning all serve to ensure intelligence operations are conducted legally, ethically and do not become the DoD or the detention facility Commanders priority Public Affairs mission.

The aforementioned publications and directives make it very clear that all intelligence interrogations, debriefings, or tactical questioning to gain intelligence from captured or detained personnel will be conducted humanely and in accordance with applicable law and policy. While in the custody of DoD, all acts of physical or mental torture, including “water boarding” are strictly prohibited. Additionally, “military working dogs (MWD), contracted dogs or any other dog used by any government agency [will] not to be used as part of an interrogation approach, nor [used] to harass, intimidate, threaten, or coerce a detainee for interrogation purposes.”⁴³ DoD policy also clearly stipulates that “detainees determined by medical personnel to be medically unfit to undergo interrogation will not be interrogated”⁴⁴ nor can their medical condition be provided to or used by an interrogator for the purposes of assisting during an interrogation.⁴⁵ To further ensure the that interrogations are performed legally, once a detainee is escorted to the interrogation location, the “military police remain at the

interrogation site to maintain security, account for detainees, maintain the detainees' safety and maintain the safety of personnel at the site".⁴⁶

Because all the aforementioned safeguards are in place, GTMO remains the single best repository of al-Qaida information in the [DoD]. Many detainees have admitted close relationships or access to senior al-Qaida leadership. They provide valuable insights into the structure of that organization and associated terrorists groups; they have identified additional al-Qaida operatives and supporters...and have provided information on individuals connected to al-Qaida's pursuit of chemical, biological, and nuclear weapons.⁴⁷ Previous "statements made by detainees [at GTMO] provide valuable insights into the mindset of these terrorists and continuing threat [posed] to the US".⁴⁸ What makes this all the more noteworthy is the fact that detainees at GTMO do not have to participate in any interrogation session. All detainees have the right to refuse attending an interrogation session. Although a detainee does occasionally refuse an interrogation session, it is not the norm. The "actionable intelligence gleaned [from detainees] at Guantanamo Bay [is] through 'rapport building' techniques and not torture."⁴⁹ In fact a detainee who chooses to participate in a scheduled interrogation, more often than not, will find himself eating food from the local Pizza Hut or Subway located on Guantanamo Bay Naval Base.

The intelligence and interrogation procedures currently being practiced in GTMO today are clearly in compliance with all established "US law and international obligations, including the convention against torture, Common Article 3 of the Geneva Conventions, the Detainee Treatment Act the Military Commissions Act and the applicable DoD directives and instructions governing detainee [intelligence and

interrogation] operations.”⁵⁰ Lessons have been learned, laws, DoD policy directives, Army regulations and training programs have all evolved and been updated since the onset of the Global War on Terror such that now the argument against using GTMO as a strategic detention platform is tremendously weakened.

Detention Operations

From a detention perspective, in September 2006, the DoD published the DoD Directive 2310.01E, Department of Defense Detainee Program, which establishes the overarching DoD detainee policy and directs, among other things, that detainees must be treated humanely at all times while in the care, custody, or control of any member of the DoD components, regardless of status of the detainee or characterization of the conflict.⁵¹ The policy clearly articulates that “without regard to the detainee’s legal status, the minimum standards outlined in Common Article 3 of the Geneva Conventions of 1949 apply to all detainees until their final release, transfer out of DoD control or repatriation...Article 3 provides for the humane treatment of enemy prisoners of war (EPWs) [and] it regulates the treatment of EPWs (care, food, clothing, medical care and housing), discipline and punishment, external relations, representation, the international exchange of information, and the termination of [detention].”⁵² Additionally the policy requires the immediate notifications of all “incidents of possible, suspected, or alleged violation[s] of the law of war, for which there is credible information, or conduct during military operations other than war, that would constitute a violation of the law of war if it occurred during an armed conflict must be forwarded to the CJCS, General Counsel, DoD; Assistant Secretary of Defense (Public Affairs); Under Secretary of Defense (Policy); Under Secretary of Defense (Information); Assistant Secretary of

Defense (Legislative Affairs), and the Inspector General of the Department of Defense.”⁵³

These requirements are clearly directed toward controlling and investigating, if necessary, any kind of incident that may occur inside a DoD controlled detention facility. Specifically in GTMO for example, “out of 24,000 [plus] interrogations at Guantanamo, there were [only] seven confirmed cases of abuse, ‘all of which were relatively minor.’ In the eyes of history, compared to any other camp in any other war, this is an astonishingly small number.”⁵⁴ On the surface this may all seem like common sense to require all the aforementioned reporting requirements but recent history has clearly illustrated the need for the development and publication of clear, unambiguous policy guidance. Clearly, the guidance is being read and adhered to.

Since the arrival of the first detainees in January 2002, DoD has continued to make a concerted and consistent effort to improve the conditions of detention at GTMO. Although there are only approximately 275 detainees detained at GTMO today, Joint Task Force – Guantanamo has the capacity to house well over 1000 detainees in Camp Delta. Camp Delta is comprised of nine separate detention camps. Of the nine camps, three of the camps cost over \$70 million dollars to build and easily rival any civilian county, state or federal correctional facility in the US. The guard force manning the facilities is easily one of the best and most highly training, disciplined and professional forces assembled.

Presidential candidate, Senator John McCain has gone on record having said that he would close GTMO down and move the detainees to the Disciplinary Barracks located at Fort Leavenworth, Kansas because it is where the Department of Defense's

only maximum security prison located in the US.⁵⁵ Making such a move, while not even considering the yet undetermined legal ramifications, “would require [among other things] a shifting of some of Ft. Leavenworth’s current inmates to other federal facilities”⁵⁶ because it is currently “close to full operational capacity.”⁵⁷

If the decision is made to move detainees to Ft. Leavenworth, a complete rethinking of the installations force protection requirements and ramifications must be explored. The “GTMO detainees may require [a] higher security requirement [which] is equivalent to the [standards of confinement at] the Federal Bureau of Prison’s (FBOP) Administrative Maximum [Facility located] at Florence, Colorado.”⁵⁸ Additionally many “Republicans on Capital Hill have argued that moving detainees to military brigs or maximum-security prisons in America...could increase the likelihood of a terrorist attack in the United States.”⁵⁹

In spite of the over \$70 million dollars already spent on the three main facilities at GTMO, moving the detainees to Ft. Leavenworth could prove very difficult during an election year. With the Ft. Leavenworth facility already at close to maximum operating capacity, a new facility would likely have to be built at a “cost that could well exceed \$150 million dollars. [Additionally] the location of the [Ft. Leavenworth] installation and the [building of a] new facility would require the purchase of private land [necessary] for an adequate [force protection] standoff.”⁶⁰

In addition to building a new facility, the Ft. Leavenworth garrison support structure would have to be expanded exponentially. For example, DoD would have to appropriate additional funding to “build [additional troop support facilities (e.g. barracks, [dining facilities], child care center, unit headquarters, etc.) for possibly [over a 1000 personnel

and support staff].”⁶¹ Upgrades would be required to the base hospital. The hospital facility would have to operate on a 24 hour basis and contain separate maximum secure facilities in order to ensure detainees are kept separate from the local populace.⁶² The cost factors alone are clearly prohibitive when compared to the current force protection posture and the physical location of the facilities that GTMO offers.

Beyond the location and facilities however, the day to day care of the detainees held at GTMO, in most cases, goes way beyond what is required by the Geneva Conventions. Not unlike in other detention and prison facilities throughout the US, detainees at GTMO are afforded various privileges based upon their level of cooperation and compliance to the rules of the camp. All detainees “are offered a number of diversions, courtesy of the American taxpayer.”⁶³ All “detainees have access to a 6,000-book library, from which [they] can check out everything from hobby magazines like Bird Watcher’s Digest, to commentaries on Islam, to Agatha Christie thrillers.”⁶⁴ Additionally all detainees are afforded the opportunity to participate in recreation activities varying from between two and 12 hours a day. For the most cooperative and compliant of detainees, they can participate in classes teaching English, Arabic or Pashtu.⁶⁵ Just recently, DoD announced “that it will allow detainees to make regular phone calls to their families.”⁶⁶ Detainees also have the ability to send and receive mail. Since operations have been underway in GTMO, detainees have sent and received over 57,000 pieces of mail.⁶⁷

Medical care received by the detainees is some of the best in DoD in not the US. “Detainees are treated at a dedicated medical facility with state-of-the-art equipment and an expert medical staff of more than 100 personnel. The facility is equipped with 20

in-patient beds, a physical therapy area, a pharmacy, a radiology department, a central sterilization area, and a single-bed operating room.”⁶⁸ Detainees also have access to “a separate facility for [their] mental health care and their dental care.”⁶⁹ Today there are approximately 275 detainees being held at GTMO and they are being medically cared for by over 100 of the best dedicated, medical care professional in DoD. This patient to provider ratio is found nowhere else in DoD let alone in the US health care system.

Finally detainees are fed a "Halal" diet that is culturally correct and meets all dietary requirements to include the preparation of over 80 individually prepared special diet meals usually directed by medical personnel. Detainees are given a menu two weeks in advance so they can select from four different meal choices (vegetarian, bland diet, regular menu or high fiber); each main meal menu choice usually includes noodles, fish, meat, a vegetable patty or poultry.”⁷⁰ As stated earlier, all-in-all, if a detainee selects to eat all three meals a day provided, he will consume 4,500 – 5,000 calories a day.

Irrelevant to the continued "lawfare" being waged in the US court system, Vice President Richard Cheney has said for the record “he would prefer not to close the prison: if you closed Guantanamo, you would have to find someplace else to put these folks.”⁷¹ At this time this simply does not look like it is going to happen. At the end of the day, keeping GTMO open and operating as the Department of Defense's only strategic detention and intelligence facility simply makes sense. The United States will continue to need a facility that possesses the capabilities that GTMO offers as long as we are engaged in a Global War on Terror. Since Secretary of Defense Rumsfeld stated [GTMO] has "its disadvantages",⁷² the Administration, US Congress and DoD

leadership have all moved forward; learned from past lessons and have taken the necessary steps to ensure that the detention and intelligence operations at GTMO continue to be the most humane, legal, and transparent, in existence today.

With no foreseeable end to the Global War on Terror, the realities are such that the US will continue the need for a strategic detention and intelligence facility. The existing infrastructure, manpower and operations already in place clearly illustrates that GTMO is the best option for the United States. Task Force – Guantanamo Bay Commander, Rear Admiral Mark Buzby puts it this way: “There will be a lot of talk and rhetoric, I predict, about Guantanamo and its future, but when it comes down to brass tacks, I think the facility fulfills its purpose very well.”⁷³

Endnotes

¹ Liberally Conservative, “If Not Guantanamo, Then Where?,” AgoraVox, [newspaper online]; available from http://www.agoravox.com/print_article.php3?id_article=6334&format=print; Internet; accessed 7 January 2008

² Corine Hegland, “Guantanamo, the Day After,” National Journal (August 4, 2007): 28.

³ Virtual Video Visit linked from the Joint Task Force Guantanamo Homepage at “Virtual Video Visits”, available at: <http://www.jtfgtmo.southcom.mil/vvv.html>; internet; accessed 7 January 2008.

⁴ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Pace; 22 January 2002; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2254>; internet; accessed 17 March 2008.

⁵ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Meyers; 27 December 2001; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2696>; internet; accessed 17 March 17, 2008.

⁶ Ibid.

⁷ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Myers; 19 January 2002; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2197>; internet; accessed 17 March 2008.

⁸ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Myers; 03 January 2002; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=1046>; internet; accessed 17 March 2008.

⁹ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Pace; 22 January 2002; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2254>; internet; accessed 17 March 2008.

¹⁰ Ibid.

¹¹ Ibid.

¹² James P. Terry, “Habeas Corpus and the Detention of Enemy Combatants in the War on Terror,” Joint Forces Quarterly, Issue 48, (1st quarter 2008): 14

¹³ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Pace; 22 January 2002; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2254>; internet; accessed 17 March 2008.

¹⁴ Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Pace; 22 January 2002; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2254>; internet; accessed 17 March 2008.

¹⁵ JTF-GTMO Operational Update Brief; JTF-GTMO, Guantanamo Bay, Cuba; slide 35: June 2007.

¹⁶ Ibid. Slide 37.

¹⁷ Ibid. Slide 36.

¹⁸ Ibid.

¹⁹ Ibid. Slide 37.

²⁰ Ibid. Slide 36.

²¹ Linda Greenhouse, “Guantanamo Detainees Enjoy historic Protections, Administration Says,” New York Times, 11 December 2007

²² Kent Spriggs, “Justice in High Court’s Hands,” Miami Herald, 4 December 2007

²³ Sarah Stannard, “OARDEC provides recommendations to the Deputy Secretary of Defense,” The Wire, Official publication of JTF-GTMO Public Affairs, 26 October 2007, pg 3.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ 109th Congress Report House of Representative, "Detainee Treatment Act of 2005." 109th Cong., 1st sess., available from http://www.pegc.us/detainee_act_2005.html; Internet; accessed 21 October 2007

²⁸ Terry, 17

²⁹ Ibid.

³⁰ JTF-GTMO Staff Judge Advocate Brief; JTF-GTMO, Guantanamo Bay, Cuba; 29 September 2007

³¹ Virtual Video Visit, linked from the Joint Task Force Guantanamo Homepage at "Virtual Video Visits", available at: <http://www.jtfgtmo.southcom.mil/vvv.html>; internet; accessed 7 January 2008.

³² JTF-GTMO Operational Update Brief; JTF-GTMO, Guantanamo Bay, Cuba; slide 5: June 2007.

³³ Jerrold M. Post, ed., Military Studies in the Jihad Against the Tyrants: The Al-Qaeda Training Manual (USAF Counter Proliferation Center, Maxwell Air Force Base, Alabama, August 2004), pg169.

³⁴ U.S. Department of Defense, Capstone Concept for Joint Operations, version 2, (Washington D.C., August 2005): 4 – 5.

³⁵ JTF-GTMO Operational Update Brief; JTF-GTMO, Guantanamo Bay, Cuba; slide 2 June 2007.

³⁶ Shanita Simmons, "Mullen Says Guantanamo Mission Mitigates Global Risk", The Wire, Official publication of JTF-GTMO Public Affairs, available from <http://www.jtfgtmo.southcom.mil/storyarchive/2008/08janstories/011308-2-CJCS.html>; Internet ; accessed 15 January 2008.

³⁷ Ibid.

³⁸ "JTF-GTMO Information on Detainees," 4 March 2005, linked from The U.S. Department of Defense Home Page, available from <http://www.defenselink.mil/news/Mar2005/d20050304info.pdf>; Internet; accessed 21 January 2008.

³⁹ Patrick McCarthy, CAPT, USN, e-mail message to author, 18 October 2007.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ The Department of Defense Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning, Department of Defense Directive 3115.09, (Washington D.C.: Department of Defense, 3 November 2005), pg. 4

⁴⁴ Ibid, pg. 3

⁴⁵ The Department of Defense Medical Program Support for Detainee Operations, Department of Defense Directive 2310.08E, (Washington D.C., Department of Defense, 6 June 2006).

⁴⁶ Department of the Army, Internment and Resettlement Operations, Army Field Manual 3-19.40, change 1 (Washington D.C.: Department of the Army, 17 December 2007), pg. 4-4.

⁴⁷ "JTF-GTMO Information on Detainees," 4 March 2005, linked from The U.S. Department of Defense Home Page, available from <http://www.defenselink.mil/news/Mar2005/d20050304info.pdf>; Internet; accessed 21 January 2008. pg. 1

⁴⁸ Ibid. pg. 5

⁴⁹ Paul Meeker, "JIG Director discusses strategic intelligence collection at Gitmo," The Wire, Official publication of JTF-GTMO Public Affairs, 29 February 2008, pg 5.

⁵⁰ Jim Garamone, "Defense Department Takes Custody of high-Value Al Qaeda Operative", linked from U.S. Department of Defense Home Page, available from <http://www.defenselink.mil/news/newsarticle.aspx?id=49283>; internet; accessed 19 March 2008.

⁵¹ The Department of Defense Detainee Program, Department of Defense Directive 2310.01E, (Washington D.C.: Department of Defense, 5 September 2006).

⁵² Ibid

⁵³ Ibid

⁵⁴ Charles Krauthammer, "Gitmo Grovel: Enough Already", Washington Post, [newspaper on-line]; available from <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/02/AR2005060201750.html>; Internet; accessed 25 March 2008

⁵⁵ Kristen Scharnberg, "Gitmo plan has Kansans uneasy; Proposal to move detainees raises legal and safety questions", Chicago Tribune, [newspaper on-line]; available from http://www.chicagotribune.com/news/nationworld/chi-leavenworth_20aug20,1,969658.story; Internet; accessed 2 January 2008.

⁵⁶ Ibid.

⁵⁷ Mark Inch, COL, USA, MP, e-mail message to author, 21 December 2007.

⁵⁸ Ibid.

⁵⁹ Noam N. Levey, "Closing Guantanamo lockup looks increasingly unlikely", LA Time, [newspaper online]; available from http://www.latimes.com/news/printedition/ascetion/al-na-gitmo24sep24,0,4231516,full.story?coll=la-news-a_section; Internet; accessed 2 January 2008

⁶⁰ Inch.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Jacob Laksin, "Club Gitmo; What it's really like behind the wire", The Weekly Standard, [newspaper online]; available from http://www.weeklystandard.com/Utilities/printer_preview.asp?idArticle=14893&R; Internet; accessed 20 March 2008.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ "Gitmo Inmates to Get Phone Calls To Family", Washington Times, [newspaper online]; available from <http://www.us.army.mil/suite/earlybird/Mar2008/e20080312587228.html>; Internet; accessed 12 March 2008.

⁶⁷ JTF-GTMO Operational Update Brief; JTF-GTMO, Guantanamo Bay, Cuba; slide 37: June 2007

⁶⁸ Virtual Video Visit linked from the Joint Task Force Guantanamo Homepage at "Virtual Video Visits", available at: <http://www.jtfgtmo.southcom.mil/vvv.html>; internet; accessed 7 January 2008.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Hegland, 23.

⁷² Defense Link News Transcript: DoD News Briefing – Secretary Rumsfeld and Gen. Meyers; 27 December 2001; available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2696>; internet; accessed 17 March 17, 2008.

⁷³ Russ Bynum, "Guantanamo commander defends detention", The Ledger-Enquirer, [newspaper online]; available from <http://www.ledger-enquirer.com/251/v-print/story/228156.html>; Internet; accessed 23 January 2008

